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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,127	05/29/2001	Adnan Asar	KEYNP007	6508
26541	7590	06/13/2005	EXAMINER	
RITTER, LANG & KAPLAN P.O. BOX 2448 SARATOGA, CA 95070			PWU, JEFFREY C	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,127

Applicant(s)

ASAR ET AL.

Examiner

Jeffrey C. Pwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-31 and 34-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-31 and 34-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7-31, and 34-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Goldszmidt et al. (U.S. 6,195,680).

Goldszmidt et al. teach a system, method and computer program product for measuring streaming media over a network, comprising:

- connecting a data acquisition agent to the network; (col.2, line 65-col.3, line 56)
- generating a list of measurement targets, associated configuration parameters, and schedule based on data received for each of the measurement targets; (4.1)
- receiving the list of measurement targets, associated configuration parameters, and schedule; (4.2)
- sending a request for streaming media from the data acquisition agent to a media source identified as one of the measurement targets connected to the network; (4.4, 4.5)

- receiving streaming media from the measurement target in response to the request for media at the data acquisition agent; monitoring the streaming media; (4.6)
- collecting performance measurements for the streaming media; (5.1)
- sending the performance measurements to a data collection server configured for collecting and storing data received from a plurality of data acquisition agents; (5.1-5.3)
- wherein receiving streaming media comprises receiving streaming audio; (col.11, lines 15-37)
- wherein receiving streaming media comprises receiving streaming video; (col.11, lines 15-37)
- wherein receiving streaming media comprises receiving streaming audio and video; (col.11, lines 15-37)
- wherein collecting performance measurements comprises collecting initial connection and redirection times; (fig.5, steps 5.3-5.7)
- wherein collecting performance measurements comprises collecting number of redirects; (fig.5, steps 5.3-5.7)
- wherein collecting performance measurements comprises collecting packet information; (col.10, line 64-col.11, line 10)
- wherein collecting performance measurements comprises collecting rebuffer information; (col.13, line 63-col.14, line 19)
- wherein collecting performance measurements comprises collecting frame information; (col.14, lines 20-60)

- wherein collecting performance measurements comprises collecting bandwidth information; (col.13, line 64-col.14, line19)
- wherein collecting performance measurements comprises identifying the code used to encode a clip; (col.11, lines50-55)
- wherein collecting performance measurements comprises identifying errors (350)
- wherein the network is the Internet; (col.11, line 13)
- wherein connecting a data acquisition agent to the network comprises connecting a plurality of data acquisition agents to the network at a plurality of locations; (abstract; 1.7)
- wherein each of the data acquisition agents include an internal clock coordinated with the other data acquisition agent clocks; (see internal clocks of servers 2.5, 2.8, 2.1; 3.5, 3.8, 3.1)
- wherein the stream quality rating is based on a startup score, audio score, and video score, wherein the stream quality rating is a value calculated based on a percentage of the startup score, audio score and video score; (see abstract)
- wherein the video and audio scores are based on rendering and encoding scores; (col.11, lines 47-67)
- wherein collecting performance measurements comprises collecting measurements for a predetermined period of time; and (it is inherent to collect performance measurements by collecting measurements for a predetermined period of time)
- wherein the configuration parameters comprise a URL containing media to be played and performance measurements to be collected; and (col.13, line6-14)

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- wherein the schedule information includes playback time. (col.13, line6-14)

Response to Arguments

3. Applicant's arguments with respect to claims 1-4, 7-31, and 34-57 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



June 8, 2005

JEFFREY PWU
PRIMARY EXAMINER